

REMARKS

Applicants have amended the specification to address informalities. Applicants have cancelled claims 1-6 in conjunction with the previous election as these claims go toward an invention separate to the claims at issue. Applicants have amended claims 7, 11, and 12 to further define the invention. Applicants have cancelled claims 13-14 as they contain confusing language in consideration of new claim 16. Applicants have also added new claims 15 and 16 to further define different embodiments of the invention.

The specification is objected to due to informalities. Specifically, the specification is objected to for attempting to use an acronym without first defining it (the acronym also includes a typographical error). Applicants have amended the specification to address this issue.

Claims 11-14 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Specifically, the Detailed Action notes that claims 11 and 12 contain language reciting a "tip" which does not fit within the definition of the claim and "enclosed" which appears vague. Also, claims 13 contains "adapted" which is vague and claim 14 contains "the diameter" which has no antecedent basis. First, applicant has amended claims 7, 11 and 12 and added new claim 15 to more fully describe the physical limitations of the apparatus. Applicants have removed the terms "tips" and "enclosed" and used a physical description of the sample holder embodiments. Second, applicants have cancelled claims 13 and 14, therefore, this issue is moot. Therefore, applicants believe that the amended and new claims meet the requirements of 112, second paragraph.

Claims 7-9 and 12-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Izmailov (US 6,397,150). Claims 7-9 and 12-13 stand rejected under 35 U.S.C. §

102(b) as being anticipated by Wang et al. (US 5,804,451). Finally, claims 7 and 9-14 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Giebeler et al. (US 6,236,456). Applicants assert that the amended and new claims are no longer anticipated by any of the above referenced or any other prior art.


First, applicants have added a limitation to the claims that the light emissions used in the device are in the near infrared band. This limitation changes the function of the device versus devices that do not operate within this band significantly, as is described within the specification. Neither Izmailov or Wang et al. disclose light emissions within this band, therefore, no longer anticipate the present claims.

Second, applicants have added language regarding the different embodiments of the sample holders of the present device. All of the prior art devices are large, relatively non-portable devices that merely use some type of plate wherein a sample is placed for analysis. The sample holders described within the present claims allow for portability and for many different types of samples to be tested. Because none of these limitations are set forth in the references, the references no longer anticipate the present claims.

Also, because the operation of the devices disclosed in the references are so different than the operation of the present invention, no combination of the references with other devices would be obvious to one skilled in the art.

Accordingly, applicants believes that claims 7-12 and 15-16 are in condition for allowance and respectfully requests the examiner to withdraw all objections and rejections and allow said claims. Should the examiner need more information regarding this matter or have further suggestions regarding this application, feel free to call the undersigned at 301-744-6668.

Respectfully submitted,

  
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